

Message Text

LIMITED OFFICIAL USE

PAGE 01 USUN N 04110 160012Z

73

ACTION EB-06

INFO OCT-01 ARA-06 EUR-08 IO-04 ISO-00 L-01 FRB-01 OMB-01

TAR-01 SP-02 SWF-01 AGR-05 AID-05 CIAE-00 COME-00

INR-05 LAB-01 NSAE-00 OIC-01 RSC-01 SIL-01 STR-01

TRSE-00 CIEP-01 CEA-01 AF-04 EA-06 NEA-06 SS-15 NSC-05

SSO-00 NSCE-00 USIE-00 INRE-00 DRC-01 /091 W

----- 001958

O R 152342Z OCT 74

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 6425

INFO USMISSION GENEVA

USMISSION EC BRUSSELS

USMISSION OECD PARIS

AMEMBASSY MEXICO

LIMITED OFFICIAL USE USUN 4110

TREASURY PASS BRADFIELD

E.O. 11652: N/A

TAGS: UNCTAD, EGEN, ETRD

SUBJ: CHARTER OF ECONOMIC RIGHTS AND DUTIES

REF: (A) USUN 4067 (B) STATE 225553

1. WE APPRECIATE INSTRUCTIONS CONTAINED REFTEL (B).
AS REPORTED SEPTEL, WHILE CANADIAN-AUSTRALIAN PROPOSAL
REPORTED REFTEL (A) IN ITS FIRST SENTENCE DOES CONTAIN
THE LANGUAGE OF "POSSESSION, USE AND DISPOSAL", WE ARE
PRESSING THE G-77 TO RETURN TO THE LANGUAGE PROVISIONALLY
AGREED AT GENEVA FOR THIS SENTENCE.

2. WASHINGTON WILL NOTE THAT CANADIAN-AUSTRALIAN
PROPOSAL MEETS ITS POINTS ON EXHAUSTION OF LOCAL REMEDIES
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 USUN N 04110 160012Z

AND INVESTMENT AGREEMENTS.

3. WE ARE REASSURED TO KNOW THAT WASHINGTON COULD LIVE WITH LANGUAGE "UNLAWFUL PRESSURE" AND ACCORDINGLY WOULD ASSUME THAT IT COULD LIVE THE MORE EASILY WITH "UNLAWFUL COERCION". IN ANY EVENT, WE HAVE TAKEN CARE TO HAVE THE CANADIAN-AUSTRALIAN PROPOSAL CHARACTERIZED AS SUCH AND NOT TO COMMIT THE USG TO ITS "COERCION" REFERENCE.

4. WE APPRECIATE THAT WASHINGTON APPREHENDS THAT "UNLAWFUL" QUALIFICATION OF COERCION OR PRESSURE IS LIKELY TO DISAPPEAR. IF CURRENT NEGOTIATIONS GET OVER THE GREAT HUMP OF COMPENSATION AND REACH THIS PROVISION-- WHICH IS UNLIKELY -- WE AGREED THAT WE SHALL PROBABLY NOT BE ABLE TO HOLD "UNLAWFUL". IN VIEW OF FREELAND (UK), AND, APPARENTLY, ALL OTHER GROUP B REPRESENTATIVES, HOWEVER, USG WOULD DO WELL TO ACCEPT (PROVIDED THAT ART. 2 OTHERWISE IS SATISFACTORY): "IN RESPECT OF THE FOREGOING RIGHTS, ALL STATES SHALL FULFILL IN GOOD FAITH THEIR INTERNATIONAL OBLIGATIONS, INCLUDING THOSE OBLIGATING THEM TO REFRAIN FROM THE EXERCISE OF ANY FORM OF COERCION". FREELAND'S ARGUMENT IS AS FOLLOWS. FIRST, REFERENCE TO "INTERNATIONAL OBLIGATIONS" IS VITAL TO US, AND WE ARE UNLIKELY TO GET IT WITHOUT REFERENCE TO COERCION. SECOND, COERCION, AS HERE DRAFTED, REFERS TO COERCION EXERCISED BY HOST STATES AS WELL AS BY STATES WHOSE NATIONALS ARE EXPROPRIATED. THIRD, COERCION COVERS NOT ONLY EXPROPRIATION, BUT, IF WE ACCEPT G-77 LANGUAGE ON "USE AND DISPOSAL," THE SORT OF COERCION THE ARABS EXERTED IN THEIR OIL BOYCOTT. FOURTH, DEFINING COERCION BY THE PRECEDING REFERENCE TO "INTERNATIONAL OBLIGATIONS" SHOWS NOT THAT ALL FORMS OF PRESSURE -- SUCH AS THE HICKENOPPER AMENDMENT, VOTING AGAINST LOANS, ETC. -- IS INTERDICITED BUT RATHER THAN ONLY SUCH COERCION AS INTERNATIONAL OBLIGATIONS DEBAR IS PROHIBITED. FIFTH, IF ONE WERE TO SEEK AN AUTHORITATIVE DEFINITION OF INTERDICITED COERCION, ONE WOULD LOOK TO THE FRIENDLY RELATIONS DECLARATION: MEASURES "TO COERCE ANOTHER STATE IN ORDER TO OBTAIN FROM IT THE SUBORDINATION OF THE EXERCISE OF ITS SOVEREIGN RIGHTS..." THERE IS NO SOVEREIGN LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 USUN N 04110 160012Z

RIGHT TO EXPROPRIATE IN VIOLATION OF INTERNATIONAL LAW.

5. USDEL FINDS THE FOREGOING ARGUMENTS COGENT, AND ACCORDINGLY RENEWS ITS REQUEST FOR AUTHORITY TO ACCEPT THE CANADIAN-AUSTRALIAN PROPOSAL BOTH AS DRAFTED AND, IF NEEDS BE, WITHOUT THE WORD "UNLAWFUL". THIS IS NOT TO SAY THAT WE BELIEVE IT LIKELY WE SHALL NEED THIS AUTHORITY, FOR WE HAVE THE STRONGEST DOUBT THAT GROUP B CAN AGREE

WITH G-77 EITHER ON COMPENSATION, OR ON ANY VERSION OF SUBPARA. 3 OF ART. 2 DISCUSSED IN THIS MESSAGE. MOREOVER, WE HAVE ALREADY WARNED OUR COLLEAGUES IN GROUP B THAT WASHINGTON GIVES SIGNS OF HAVING DEFINITIVE DIFFICULTY WITH THE COERCION REFERENCE. BUT IN RESPONSE TO THAT WARNING, WASHINGTON SHOULD KNOW THAT REMAINDER OF GROUP B FINDS SUCH DIFFICULTY MISPLACED, AND THAT THE USDEL BELIEVES THAT OBLIGING IT TO TORPEDO THE CANADIAN-AUSTRALIAN FORMULA ON THIS COUNT WILL BE COUNTER-PROMPTIVE IN MULTIPLE WAYS.

6. WE HAVE INFORMED CANADIAN DEL THAT FORMULA CONTAINED IN PAR. 7 OF REFTEL (A) IS UNACCEPTABLE.

SCALI

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, INSTRUCTIONS, COMMITTEE MEETINGS, ECONOMIC CONTROLS, CHARTER OF ECONOMIC RIGHTS & DUTIES
Control Number: n/a
Copy: SINGLE
Draft Date: 15 OCT 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974USUNN04110
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740293-0425
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741044/aaaablsb.tel
Line Count: 129
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) USUN 4067 (B) STATE 225553
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 04 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 APR 2002 by boyleja>; APPROVED <30 JUL 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CHARTER OF ECONOMIC RIGHTS AND DUTIES
TAGS: EGEN, ETRD, US, UNCTAD, GROUP 77
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005